Edison has misled the Commission by asserting that the lower CTCs resulting from these increases will be enough to offset the combined distribution and transmission rate increases themselves. Chart C again looks at the *net* savings totals (total *decreases* in savings, less, total *increases* in savings) and shows these *net* savings decreases as compared to the other model runs described in this testimony.

Q. **Does Table 3 show how many of AES NewEnergy's customer accounts would be better off taking service under Edison's bundled service tariffs?**

A. Yes. Table 3 shows that customer accounts (representing % of sales volume) would become more economically served under bundled rates under the situation portrayed in Case #1. Charts D and E have been included to show these respective figures to the other model runs described in this testimony. It is reasonable to infer, therefore that somewhere between one-fourth and one-third of all current delivery services customers would be forced back to bundled rates if Edison's revenue requests are approved by the Commission and FERC.

The Second Customer Impact Analysis Demonstrates That Using The GCI Rate Base And <u>Revenue Requirement Would *Reduce* The Rate Shock</u>

Q. **Please describe the results of the second new customer impact model run on AES NewEnergy's customer base (Case #2).**

A. Case #2 shows that **all** customer account segments still would **experience higher delivery services charges** under the rate base and revenue requirements determined by GCI witness Effron. Additionally, **all** customer account segments would again experience the same **increase in transmission costs** as was found in the previous case.

However, the overall impact upon customers would be much less than under Edison's proposal.

Q. Please quantify how using the GCI rate base and revenue requirements would impact AES NewEnergy's customer base?

A. While 11 customer account segments (representing about % of annual sales volume) will be fortunate enough to find that the CTCs decrease enough to offset the combined rate increases, **more than half** of AES NewEnergy's customer accounts (%) representing a great majority of AES NewEnergy's sales volume (%) would see their **savings diminish** under this set of circumstances as compared to their present savings if served on the PPO. The average *decrease* in savings these customer accounts would experience is much lower than under Edison's proposal and is shown to be %. Again, Charts A and B, respectively, show the relative quantity of customer accounts thus affected and the average percentage of reduced savings as compared to the other model runs described in this testimony.

The disparity in savings between those customer accounts that would see a *decrease* in savings compared to those that would experience an *increase* in savings is less than it was before, but is still significant in this case. The Case #1 summary line on Table 3 shows that the total amount of *increased* annual savings for those accounts which would benefit is about $. Meanwhile, the total amount of *decreases* in annual savings for those accounts whose savings would diminish exceeds $. This is a ratio of savings *decreases* to savings *increases* in this case of 73 to 1. Again, even under this lowered distribution revenue scenario the lower CTCs resulting from these increases will not be enough to offset the combined distribution and transmission rate increases themselves.

Chart C looks at the *net* savings totals (total *decreases* in savings, less, total *increases* in savings) and shows these *net* savings decreases as compared to the other model runs described in this testimony.

Q. Based upon this analysis, how many of AES NewEnergy's customer accounts would be better off taking service under Edison's bundled service tariffs?

A. Table 3 shows that customer accounts (representing % of sales volume) would become more economically served under bundled rates under the situation portrayed in Case #2. Charts D and E have again been included to show these respective figures to the other model runs described in this testimony.

The Third Customer Impact Analysis Demonstrates That Using The GCI Rate Base And Revenue Requirements And Edison's Current Transmission Rates Would <u>Further Reduce The Adverse Impact of Edison's Proposal</u>

Q. Please describe the results of the third new customer impact model run on AES NewEnergy's customer base (Case #3).

A. Case #3 shows that **all** customer account segments would experience the same higher delivery services costs as Case #2 (but less so than Case #1) under the current rate structure modified to reflect the revenue requirement determined by GCI witness Mr. Effron. However, in this situation, no customer account segments would see an increase in transmission costs since transmission are assumed in this case to stay the same as they are currently. Case #3 shows that in this situation, 20 customer account segments (representing about % of annual sales volume) will be fortunate enough to find that the CTCs decrease enough to offset the distribution rate increase (as transmission rates have been left at current levels).

Q. Please quantify how this would impact AES NewEnergy's customer base?

A. The corresponding summary line of Table 3 (represented by Case #3) shows that % of AES NewEnergy's customer accounts representing more than half of AES NewEnergy's sales volume (%) would see their savings diminish under this set of circumstances as compared to their present savings if served on the PPO. However, the average *decrease* in savings these customer accounts would experience has now dropped to only %. Charts A and B again show the relative quantity of customer accounts thus affected and the average percentage of reduced savings as compared to the other model runs described in this testimony.

The gap between savings *decreases* and savings *increases* has now been reduced in this situation. The Case #3 summary line on Table 3 shows that the total amount of *increased* annual savings for those customer accounts which would benefit is $. Meanwhile, the total amount of *decreases* in annual savings for those accounts whose savings would diminish is $. This case demonstrates a much lower ratio of savings *decreases* to savings *increases* of 3.8 to 1. In this case, the lower CTCs resulting from the distribution rate increase based on Mr. Effron's revenue requirement will nearly offset this distribution rate increase when the transmission rates stay constant. Only under this scenario, would Edison's claim of impact absorption by CTCs be at all legitimate. Chart C again looks at the *net* savings totals (total *decreases* in savings, less, total *increases* in savings) and shows these *net* savings decreases as compared to the other model runs described in this testimony.

Q. Based upon this analysis, how many of AES NewEnergy's customer accounts would be better off taking service under Edison's bundled service tariffs?

A. Table 3 now shows that   customer accounts (representing   % of sales volume) would become more economically served under bundled rates under the situation portrayed in Case #3. Charts D and E have again been included to show these respective figures to the other model runs described in this testimony.

Q. Please summarize the results of AES NewEnergy's revised customer impact study.

A. In the absence of any customer impact study by Edison of its double-barreled rate increase requests to the Commission and FERC for large increases in delivery services revenues, the ARES Coalition has carefully assessed, based on available information, the impact on customers and competition. Edison's customer impact analysis has been nothing more than a false, repeated assertion that off-setting CTC reductions would absorb the hit.

Our customer impact study decisively demonstrates that approval of Edison's rate increase improperly would result in rate shock. However, the overall rate shock to customers could be reduced if the Commission were to adopt a reduced revenue requirement, consistent with the recommendation of GCI witness Effron.

The key findings are:

- If the Commission and FERC were to approve Edison's revenue requirements request, even while rejecting Edison's various market upsetting rate design changes, customers accounting for nearly all (%) delivery services load would see increased rates overall. On average, about half (%) of the expected 8% mitigation factor savings would be eaten up. In the case of AES NewEnergy specifically, customer savings would be reduced by $ million, producing a rate-increase to rate-decrease ratio of 349 to 1. Nearly one-third of all load would end up being better off under frozen bundled rates.

- If the Commission were to reduce Edison's revenue requirements request generally in accordance with adjustments recommended by Staff and Intervenors to a very healthy $169 million increase and FERC allowed the increase of transmission revenues, customers accounting for % of delivery services load would see increased rates overall. These increases would be less burdensome since about one-tenth of the expected 8% mitigation factor savings would be eaten up. Between % and % of load would be become better off served under bundled rates.

- If the Commission were to reduce Edison delivery services revenues to the $169 million area and FERC were to reject Edison's accounting gimmick of ignoring past depreciation as recommended by this Commission, customers accounting for % of delivery services load would see rate increases overall. This increase would reduce expected mitigation factor savings of 8% by about . In this case of the analyzed delivery services load would be become better off served under bundled service.

B. EDISON HAS PROPOSED AN INFLATED TEST YEAR THAT <u>INCLUDES ATYPICAL COSTS AND COSTS UNRELATED TO DELIVERY SERVICES</u>

Q. How has Edison responded to your citation of statements by Edison officials prior to the filing of this case acknowledging that its spending in 1999 and 2000 was far out of the ordinary and that the large expenditures were due, at least in part, to past neglect?

A. Edison's response to our citations has been interesting, to say the least, and makes the need for a careful investigation and audit painfully clear. Edison reveals a very selective approach to what it sees as its responsibility to level with the Commission and the public. In response to questions concerning an article written by Edison T&D Vice President Carl Segneri that discussed unusual expenses for investment and maintenance efforts to cure past neglect of its distribution system, Edison avoided answering the question by claiming that Mr. Segneri's statements did not meet legal standards for inclusion in the case. (*See* Edison's Response to ARES Coalition Data Request Item 6.01, which is attached hereto and made a part hereof as Appendix D.) It is unclear whether Edison will also seek to now distance itself from the following aforementioned statement of Mr. Rowe, the co-CEO of Exelon:

> "this will **not cost ratepayers anymore money** because we have fixed rates. This is our problem. We'll fix it ourselves."

(*See* Edison Response to ARES Coalition Data Request 3.05.) (Emphasis added.) The essence of the Edison response is that when Edison officials are speaking candidly in trade publications to the industry or in press conferences to the public, one truth will be told. When testifying to the Commission under oath, some other truth will be told. Only a careful, Commission controlled and supervised audit can bring the required level of credibility to the situation.

Q. To what extent are extraordinatry costs being included in Edison's test year?

A. Even at this stage, it is not entirely clear. However, Staff and Intervenors have identified a number of expense items that appear to be extraordinary costs and that should not properly be included in rates for the purpose of recurring recovery through delivery services charges. Here are few examples that illustrate what appears to be a practice by Edison of using the historical test year to include one-time costs, including but not limited to:

- Jefferson substation refurbishment;
- Implementation of its 2000 Summer Readiness Program;
- Data Conversion;

- Extraordinary Emergency Restoration of Power expenses; and
- A ten-fold increase in its incentive compensation in the first year of a merger.

(*See* GC Ex. 2.0 at 15-19; Edison Ex. 23.0 at 35.)

Q. **To what extent has Edison included in its delivery services rate increase, costs that are unrelated to delivery services or that Edison has not demonstrated are related to delivery services?**

A. Again, the extent of Edison's effort to include costs unrelated to delivery services is not entirely clear. As already discussed, Edison has sought the imputation to delivery services claimed, yet highly speculative, supply price risk equity costs arising out of future POLR obligations and the voluntary divestment of its generation assets. Beyond this, however, are other examples.

For instance, in his rebuttal testimony, Edison witness Hill discusses the inclusion in expenses proposed for recovery, $3.9 million related to the clean up of Manufactured Gas Plants (MGP). (*See* Edison Ex. 23.0 at 16.) Mr. Hill makes no argument as to how or why these expenses have anything at all to do with delivery services. Edison must prove that this expenses is related to providing the services defined as "delivery services" in the Customer Choice Act. (*See* 220 ILCS 5/16-102; -108.) Absent such proof, such costs must be disallowed and relegated to recovery through the CTC.

Q. **Please address the question of the normalization of test year expenses.**

A. The direct testimony of Staff and Intervenors underscores the reality that Edison's 2000 test year was atypical in many respects. (*See, e.g.*, GC Ex. 2.0 at 15-19; GC Ex. 2.0 at 2-6 (Supplemental).) To the extent that the Commission were to accept Edison's 2000 test year expenses as proposed it would be in the face of two unique conditions that have never been in place before in Illinois utility regulation. These two conditions exacerbate the potential for excess revenues flowing from the test year's atypical levels. The **first** is that the 1997 Choice Act sets a high firm-wide return on equity ceiling that must be pierced in order for the Commission to initiate a proceeding to review the company's rates. For the remainder of the mandatory transition period, the Company could enjoy such high returns with little fear of Commission intervention to remedy any errors associated with adopting abnormally high expenditure levels from the test year.

The **second** condition is that decisions made today by the Commission will indeed directly affect consideration of the general rate case that Edison is certain to unload on the Commission in 2005. The direct testimony of Intervenors and the rebuttal testimony of Edison make clear that much of the structure of the 2000 test year expenses involves essentially irrevocable choices by the Commission. Edison witnesses attribute much of the massive increase in expenditures from 1999 to 2000 to mere "accounting changes." (*See* Edison Ex. 26.0 at 11; Edison Ex. 24.0 at 10.)). Hiding behind this rather dismissive wave-of-the-hand explanation is a fundamental allocation decision that the Commission has been alerted to by Staff and Intervenors.

Q. Would normalization of the test year harm Edison?

A. No. The testimony also shows to the Commission that "disallowing" many of these supposed costs would not, in fact, deprive Edison of full recovery of its costs on a prospective basis. **First,** atypical expenses appear in a number of cases to be one-time extraordinary expenditures that were incurred to respond to utility imprudence, these asserted "costs" will not be repeated on an annualized basis. (*See, e.g.*, GC Ex. 2.0 at 15-

19.) (*See also* GC Ex. 2.0 at 2-6 (Supplemental).) Such costs have never been considered eligible for recovery over and over again by inclusion in a test year. **Second**, with respect to costs reallocated or "re-functionalized" from supply production to delivery services, the Commission can provide for their full recovery through the functioning of the CTC just as it has done for the past two years.

C. EDISON IMPROPERLY SEEKS TO SHIFT EXPENSES FROM GENERATION TO DELIVERY SERVICES IN THE WAKE OF THE SALE AND SPIN-OFF OF ITS POWER PLANTS

Q. Please explain your position regarding Edison's proposal shift costs from its generation function to its delivery services function?

A. As explained in our direct testimony at pages 35 to 39, following the October 20, 2000 Unicom merger with PECO that resulted in the formation of Exelon last year, the parent company undertook a restructuring to separate the generation and distribution functions of Edison. Somewhat later, Edison transferred all of its previously rate based nuclear generation to an unregulated affiliate -- Exelon Genco. The Commission also should keep in mind that even though Edison no longer owns generation, it has locked in a rate for its fuel adjustment clause. Having locked in that rate and reaped the benefits of shedding its generation, Edison seeks in this proceeding to allocate to delivery services many of the costs that it previously allocated to production. The Commission must ensure that delivery services customers are not required to pay for costs actually related to the power supply function.

Q. Have Edison's witnesses admitted that a large portion of its proposed increase in delivery services charges is attributable to what Edison witnesses DeCampis and Voltz has called "accounting changes"?

A. Yes. It has become even more clear from the Edison rebuttal testimony that much of the proposed increase in delivery services charges is the result of Edison having reclassified to delivery services expenses previously attributed to the generation and supply function. This fact was also confirmed by Edison in a response to a data request when Edison witness Juracek responded that "during 2000, the Company began to record its costs within business entities that were created through its restructuring effort." (*See* Edison Response to IIEC Data Request 3.037.) Of course, these "accounting changes" would have a very real impact upon delivery services customers rates.

Q. Has Edison provided any rationale in support of its proposed "re-functionalization" of General Plant and A&G costs?

A. Not really. The Commission "functionalized" these expenses in Edison's 1999 delivery services proceeding. Now, apparently because Edison has found another way it might be able to slide through an increase its delivery services rates, Edison suggests that the Commission revisit the issue. Edison witness Hill suggests at page 6 of his rebuttal testimony that "The rationale and methodology for the functionalization of General Plant and A&G costs are described in detail in ComEd Ex. 4.0 as I discussed above and are subject to full scrutiny by Staff and all of the other parties." Actually, there is very little in either Mr. Hill's direct or rebuttal testimony that explicates the methodology of the use of the direct assignment accounting system called the Competitive Business Management System ("CBMS"). Nor has there been any independent verifications of Edison's correct use of the CBMS for the first time with respect to its restructured business. In Appendix

B page 2 to his rebuttal testimony, Mr. Hill provides a brief list of factors that may or may not have been used in direct assignment through CBMS. Further, Mr. Hill asserts that it would be too expensive and burdensome and of too little informational value to expect Edison to provide any comparison between the data used in the 2000 test year and data from 1998 and 1999.

Q. If Edison refuses to allow such a comparison, how can the Commission be assured that Edison's direct assignment method of functionalization is just and reasonable?

A. Edison has operated under a strategy of "trust us, we would not lead you astray." Unfortunately, the Commission is being placed in the position of not having the ability to track or measure the accuracy of Edison's "re-functionalization" of expenses using its CBMS. Such systems may be complex and considerable employee training is required for their proper use. Further, year 2000 is the first year CBMS was in use for the claimed proposal and more time may well be required to assure accuracy.

Q. Do any of the other Edison witnesses offer any meaningful support and verification for the accuracy of the Edison CBMS system?

A. No. At page 7 of her rebuttal testimony, Edison witness Strobel repeats the statement by Edison witness Hill that the CBMS should be trusted because Edison's independent auditor, PricewaterhouseCoopers ("PWC") reviewed the balance sheets and financial statements that resulted from the use of the CBMS. It is notable that neither Mr. Hill nor Mrs. Strobel contend that the auditor audited the use of the CBMS itself, but rather only the balance sheets. There has actually been little genuine opportunity for Staff, Intervenors or anyone else outside Edison to actually review the methodology and application of a new direct assignment system, and evaluate the extent of the training required for Edison employees to accurately record the information. Further, there is no current ability to compare current and past data in order to discern whether the allocations resulting from CBMS make good sense. New systems should be vetted at Edison before the Commission places too much reliance upon them. Edison's difficulties with its new billing system over the past several years should be instructive to all of us.

Q. **Are there other aspects of Edison's rebuttal testimony that should give the Commission pause in adopting the results of Edison's direct assignment system upon which the large "re-functionalization" of expenses has been made?**

A. Yes. There is an interesting and likely revealing contradiction between the rebuttal testimony of Pam Strobel, now CEO of Exelon Energy Delivery, and Ken Gordon, one of Edison's retained outside witnesses. At page 7 of her rebuttal testimony, Ms. Strobel states that "Any suggestion that the costs borne by ComEd are arbitrary or artificial is simply wrong." Dr. Gordon, as part of his criticism of the ARES Coalition's contention that Edison has failed to prove that the massive shift of costs from supply to delivery services was warranted at this time, informs the Commission that "allocating costs is an **inherently subjective and inexact process** – indeed, it is fundamentally **arbitrary**." (*See* Edison Ex. 21.0 at 5.) (Emphasis added.)

Q. **What are the implications of this obvious contradiction between the CEO of Edison's immediate corporate parent and one of its lead outside witnesses who is an economist and former utility regulator?**

A. There are two major implications. **First**, the Commission should be very suspicious of Edison's claim that its "re-functionalization" of expenses from supply to delivery services should be taken at face value. **Second**, while Dr. Gordon is absolutely correct that the allocation of costs among functions is arbitrary in that it depends on individual discretion, Ms Strobel is likely correct that these assignments are not arbitrary in the sense that they were not random or by chance. (*See* Wesbter's Ninth New Collegiate Dictionary, 1991.)

Q. **Is it possible to reconcile the contradiction in the testimony of Edison witnesses Strobel and Gordon?**

A. Yes. As we have stated herein and in our direct testimony, it is no coincidence that all of Edison's new proposals in this case have been targeted directly at those areas in which customer choice has been developing. In this respect it is entirely possible to reconcile the contradiction between Edison witnesses Gordon and Strobel. The reallocation of costs in great quantities from supply to delivery is largely a matter of subjectivity and individual discretion as noted by Gordon – discretion which the Commission is also free to exercise as it sees fit. However, Edison's reallocation was not made without purpose and intent to achieve a goal – the loading onto delivery services customers now and bundled service customer later – the costs that have traditionally been identified as related to generation and supply.

Q. **To what extent does the information contained in Edison's rebuttal testimony suggest that the cost shift from supply to delivery services is a major influence in inflating Edison's test year and resulting revenue increase request?**

A. The influence appears to be substantial. The Edison rebuttal testimony makes clearer, though the full story is surely not yet known, that much of the Edison proposed increase is due to "accounting changes" that would shift cost items allocated in the 1999 DST case to the supply function over to delivery services – without any demonstration that these expenses are in fashion necessary for or related to delivery services. Edison witness, Gordon, in fact, characterizes such allocations as "fundamentally arbitrary." Edison witness Voltz states that of the $109 million increase in expenses recorded in FERC Accounts 580 through 598 in comparison to the 1999 DST case, 61% or over $66 million was attributable to "accounting changes." Of this, $39.5 million involved incentive compensation and $27 million in costs "refunctionalized" from supply to delivery services. Edison witness Hill (ex. 23.0 page 34) confirms that "a large portion of the increase in Account 580 was due to the incentive compensation expense charged to this account in 2000. During 1999, the majority of the incentive compensation applicable to the Company's Transmission, Distribution and Customer areas was charged to FERC Accounts 920/921." This seemingly harmless proposed shift of expenses out of Accounts 920/921 and into 580 is significant because in Edison's 1999 DST proceeding, the Commission allocated a large portion of Accounts 920/921 to generation, Account 580 is allocated solely to delivery services.

Edison witness Hill provides a list of expenses in just two FERC accounts, 580 and 590, that indicate that large amounts were "re-functionalized" from supply to delivery services. (*See* Edison Ex. 38.0 at 35.)

Q. How should the Commission address the issue of "re-functionalization" of expenses from supply to delivery services?

A. The Commission should **reject** Edison's attempt to "re-functionalize" to delivery services costs that in the 1999 DST case were categorized as supply for the following six (6) independent reasons:

(1) The newness of the CBMS cost accounting process;

(2) The total lack of verification of the process;

(3) The admission that the system can operate arbitrarily;

(4) The clearly demonstrated adverse effects on customer choice;

(5) The risks associated with locking in decisions now that will flow through into the 2005 bundled services rate case; and

(6) The reality that disallowance of collection through delivery charges at this time merely means collection through the CTC with no financial harm to Edison because Edison could revisit the question of "re-functionalization" of costs in the 2005 rate case.

In the 2005 rate case, Edison can present several years of comparative information in order to show consistency and accuracy and the Commission can have the benefit of an outside review and opportunities for Staff review of the operation of CBMS. In addition, at that time, Edison's re-allocation of costs would not be lopsided between delivery services and bundled services and would not create an imbalance that would lead to the elimination of customer choice.

D. EDISON'S PROPOSED RATE DESIGN AND MARGINAL COST OF SERVICE METHODOLOGY NEEDLESSLY AND HARMFULLY WOULD CREATE DIFFERENCES BETWEEN THE BASES FOR DELIVERY SERVICES AND BUNDLED SERVICE

Q. Is Edison correct in its contention that adoption of its marginal cost of service study, an annual demand ratchet, and Rider HVDS will help achieve the oft-quoted Edison goal of "getting the price right."

A. No. While a number of Edison witnesses address the marginal cost question and the proposals for adoption of Rider HVDS, and an annual demand ratchet, Edison has fallen far short of making a compelling case that the aesthetic appeal to Edison of these three proposals outweighs the serious adverse impact on rate continuity and customer choice if adopted by the Commission. Edison witnesses Clair/Crumrine offer an interesting argument in favor of doing all of these things now rather than waiting until the 2005 rate case. Edison witnesses Clair/Crumrine concede that we will have to address these same questions in the 2005 Rate Case, but assert that the Commission might as well approve them now. (*See* Edison Ex. 31.0 at 28.) However, at no point do the Edison witnesses provide anything other than mere assertions regarding any benefits for the transition to competition that would result from adoption of any of these proposals. On the other hand, many parties to this proceeding provide pointed criticisms outlining the anticompetitive effect of Edison's proposal. (*See* Staff Ex. 6.0 at 4,11; GC Ex.1.0 at 14-16; IIEC Ex. 2.0 at 2; Midwest Ex. 2.0 at 2-3.)

1. <u>Use of a Marginal COSS</u>

Q. Has Edison proven that adoption of a marginal cost of service study ("COSS") is preferable to use of an embedded COSS at this time?

A. No. As we noted at pages 61 to 62 of our direct testimony, there may well be value to a marginal cost approach. However, Edison has not demonstrated that it would be wise for the Commission to adopt this particular marginal cost approach at this time, given the imbalance it would create between bundled services and delivery services. The unanimous stance of the witnesses for the Staff and Intervenors, coupled with Edison's stated willingness to accept use of an embedded cost approach, provides the Commission with a substantial basis upon which to dispense with this issue and move onto other issues.

Q. Please address the question of cost of service methodology.

A. Edison has told the Commission that it is prepared to accept use of an embedded cost of service study rather than the supposed marginal cost of service study offered by the

Company. (*See* Edison Ex. 14.0 at 1.) The full body of the testimony so far should convince the Commission to take the Company up on its offer. There are several salient elements of the testimony that point in this direction. **First**, both Staff and Intervenors have raised serious questions about the underlying premises and assumptions in Edison's marginal cost study. (*See* IIEC Ex. 2.0 at 11-13; CC Ex. 1.0 at 48-57; Staff Ex. 6.0 at 4-9; Staff Ex. 7.0 at 3-10.) Edison has offered far from a full and compelling answer to these criticisms, something of which Edison must be aware given its offer to accede to an embedded cost basis. While Edison witnesses put forth as the Company's motivation the desire to "get the price right," there are important reasons to reject Edison's request beyond the dubious claim that this particular marginal cost study accomplishes this.

Second, if the Commission were to adopt Edison's marginal cost study, as dubious as it may be, doing so would create two serious discontinuities in the midst of the transition period. One discontinuity would be that bundled service rates are based on embedded cost but delivery services would be based on marginal cost. Edison seems bent on creating as many discontinuities as possible between rates it charges bundled service customers and those it charges to delivery services customers. This difference, of course, would frustrate marketer and customer efforts to easily make comparisons for competitive purposes. Contrary to Edison's assertions, this proposal is far from being pro-competitive. It is, however, in keeping with Edison's modus operandi. Doing so is certainly in keeping, for example, with Edison' effort at the outset of competition to apportion eligibility through a blind lottery rather than a registration lottery and thereby limit the movement of customers to choice. The other damaging feature of switching over to marginal cost now is that doing so would undermine much of the progress on competition that has developed over the past two years in the context of embedded cost.

Given these considerations, the oft-repeated phrase "get the price right," placed in quotes and recited by Edison witnesses as some sort of cult-like chant, rings hollow. The right time for Edison to ask the Commission for a commitment to a well thought through marginal cost of service foundation for rates will be the 2005 general rate case when delivery and bundled services can be reconciled and balanced. This is the essence of achieving rate continuity in the new competitive environment. The Commission should opt for an embedded cost model and direct Edison to undertake an effort over the next three years to work with staff and other interested parties on arriving at a reasonable level of agreement on the terms of an appropriate marginal cost study in anticipation of the 2005 rate case.

2. Rider HVDS

Q. Has Edison proven that its Rider HVDS proposal should be adopted in this proceeding?

A. No. If anything, Edison's case for adoption of its Rider HVDS plan is even weaker after the submission of its rebuttal testimony. Edison's direct testimony was weak, since the voltage related discounts are limited to customers who take service at 69kV or above. In the 1999 DST proceeding, Edison was criticized for having failed to design its rates based upon differences in voltage levels as required under the Customer Choice Act. (*See* 220 ILCS 5/16-108(d).) In the instant proceeding, Edison has been widely criticized by Staff and Intervenors for having taken the easy way out and proposing a half-measure for rate reductions based upon voltage levels. (*See* Midwest Ex. 2.0 at 13-14; IIEC Ex. 1.0 at 6; TrizecHahn Ex. 1.0 at 3-4; IIEC Ex. 2.0 at 18.20.) Only one Intervenor, the U.S. DOE, on behalf of Argonne National Laboratories, an individual customer, has supported Edison's Rider HVDS proposal.

Q. How has Edison weakened its case regarding its proposed Rider HVDS?

A. A central criticism of the Edison proposal has not been that Edison has proposed a voltage related rate but that it has not proposed a reasonably complete set of rates based upon voltage levels. It has been pointed out that the proposed HVDS would squeeze down revenue requirements on to the vast majority of customers who take power at voltages lower than 69kV, without any demonstration that the redistribution within that group is fair. (*See* Direct Testimony of ARES Coalition witnesses O'Connor/Spilky at 59-60; Midwest Ex. 2.0 at 13-14; IIEC Ex. 1.0 at 6; TrizecHahn Ex. 1.0 at 3-4; IIEC Ex. 2.0 at 18.20.) Again, this proposal appears to be consistent with Edison's approach in the instant proceeding to propose changes that would have a negative impact upon customers that have exercised choice and to stymie areas in which competition has begun to develop.

Q. Has Edison admitted that its Rider HVDS proposal is a limited effort to design its rates based upon differences in voltage levels?

A. Yes. Edison has acknowledged that it has taken the easy way out by limiting its consideration of voltage based rates strictly to customers 69kV and above since only those customers have a designation in their Edison billing record of taking power at that level. (*See* Edison Ex. 31.0 at 21.) Nevertheless, Edison's witnesses have presented contradictory testimony about the extent to which Edison knows whether there are customers below 69kV who properly should be receiving a voltage based rate discount.

Q. Please explain how Edison's witnesses have presented testimony on this issue that suggests statistical correlations where none has been presented.

A. Edison witnesses Clair/Crumrine assert at pages 22 to 23 of their rebuttal testimony that "there is a high degree of correlation between a customer's size and the voltage at which the customer is served....ComEd's marginal cost of service study clearly shows the correlation of customers size and service voltage. Anyone who contends otherwise is simply not familiar with the details and results of the study." However, the claim of a high correlation is belied by the information contained in Edison Exhibit 13.1 at pages 14-15 and Exhibit 13.2 at pages 16-25. These exhibits make it clear that knowing whether a customer is served at 12 kV or 34 kV is not likely to provide any meaningful improvement in a "guess" about a particular customer's size. No such calculation of a correlation is presented. Of course, improving this "guess" is the essence of a correlation. If Edison has calculated a correlation in this regard, it should make that information available. As Edison witness Heintz notes at page 5 of his rebuttal testimony, "Unlike ComEd's MCOSS, distribution facilities below 69,000 Volts are not distinguishable by voltage (primary and secondary) in the ECOSS, because ComEd does not have the cost and load data necessary to make this distinction." The significance of this is that the clustering together in the marginal cost study of all customers below 69kV into a single group with respect to the impact of voltage levels on cost of service is based upon a set of assumptions that is explicitly divorced from the actual facilities that may or may not already be in place to serve them.

Q. How do you respond to Edison's assertions regarding rate continuity as it relates to voltage-based rates?

A. Edison witnesses Clair/Crumrine assert at page 23 of their rebuttal testimony that it would violate the principle of rate continuity and would "upset the apple cart" to introduce voltage based rates into bundled service rates as well as into delivery services rates. They simply miss the point about rate continuity. The rate continuity problem that was addressed by the ARES Coalition and other Intervenor witnesses primarily has been directed at the prospect of a massive increase in delivery services rates. To the extent that Edison's various proposed rate design changes exacerbate the problem, then there is even more rate discontinuity. Addressing the applicability of voltage based rates to bundled service customers as well as to delivery services customers in the 2005 rate case would be an appropriate compromise and consistent with Edison's desire to "get the price right."

Q. Are there other arguments that Edison offers in opposition to the suggestion by Intervenors that the Commission reject Edison's limited attempt to account for voltage level differences in the design of its rates and take up the issue in the 2005 rate case?

A. Edison witnesses Clair/Crumrine offer a variety of other arguments against doing anything other than providing a 69kV credit and shifting the costs to all other delivery services customers. All of the arguments send the message that this is all really about Edison rather than customers. At page 22 of their rebuttal testimony, Edison witnesses Clair/Crumrine express a fear of "voltage shopping" in which customers will seek out lower rates and of Edison engineers who would be forced to explain to "irate" customers why they do not receive a credit. At this point, Edison ought to be accustomed to irate customers who are searching for lower rates.

Q. Has Edison provided any customer impact analysis to the Commission about the impact of adoption of Rider HVDS on the competitive market?

A. Significantly, Edison has **failed** to provide a customer impact study. As discussed above, the customer impact study presented by AES NewEnergy demonstrates that approval of Rider HVDS (and the corresponding shifting of costs to customers taking service below 69kV), has an **adverse impact** on most customers currently exercising choice as well as those who may wish to consider doing so. Importantly, there has been **no demonstration** by Edison that failure to adopt Rider HVDS will have an adverse impact upon customers taking service above 69kV from exercising customer choice. The Commission should reject Edison's proposal to drastically shift the costs among non-residential customers.

3. <u>Demand Ratchet</u>

Q. Has Edison proven that it is appropriate to adopt the proposed annual demand ratchet at this time?

A. No. Again, while there may be some aesthetic appeal to Edison's desire to rely on a single annual peak demand to help set a customer's delivery services charges, Edison has failed to demonstrate that its desire to do so outweighs the serious harm it would do to the current structure of customer choice. Several points are worth noting. **First**, Edison has done little to demonstrate that the investment in distribution facilities for each customer is tuned precisely to that customer's single highest annual or that the annual peak for that customer imposes easily determinable additional costs on the delivery system. **Second**, the absence of an annual demand ratchet does not appear to have caused an unfair sharing of the delivery services burden in the past two years of competition. **Third**, Edison cannot point to any substantial system benefit or efficiency that would outweigh the discontinuities the revised rate design would impose on the savings structure under competition. The Commission should consider this issue in the 2005 Rate Case in tandem with any similar bundled rate design issues so as to assure greater comparability between bundled and delivery services.

Q. Please summarize your recommendations to the Commission with respect to Edison's *proposed* used of a marginal COSS, annual demand ratchet and Rider HVDS.

A. Edison has failed to provide the Commission with any legitimate reasons why these three proposals should be approved now instead of at the end of the transition period. As a matter of simplicity and to reduce the enormous level of uncertainty in the marketplace among customers taking competitive service and those considering choice, the Commission should **reject these proposals *now*** so that all parties can move to other more important issues related to the appropriateness of Edison's proposed revenue requirement.

E. EDISON PROPOSES TO REVERSE PAST PRO-COMPETITIVE DECISIONS BY THE COMMISSION WITH RESPECT TO CUSTOMER CREDITS FOR UNBUNDLED DELIVERY SERVICES

Q. Has Edison proven that the Commission should reverse the decision it has previously made about the appropriate methodology for the calculation of customer credits for unbundled metering and billing services?

A. No. Despite the volume of testimony presented by Edison, Edison offers nothing new or compelling to justify depriving customers of credits for unbundled delivery services and setting the credits at an amount that is less than the fees customers pay Edison for these same services when receiving them on a bundled basis. The bottom line is that Edison insists on being paid for services it does not perform. The only circumstance under which that is permissible under the Customer Choice Act is with respect to stranded generation investment when customers choose an alternative supplier. In that case, Edison is provided with the ability to capture the "lost revenues" of not providing supply that are paid through the CTC. There is no comparable provision in the Customer Choice Act for delivery services. Edison has provided no new information or arguments that the Commission has not substantively addressed in it previous decisions.

Q. Is there any specific aspect of Edison's rebuttal testimony that deserves special attention with respect to the issue of the credit levels for unbundled delivery services?

A. Yes. As noted earlier in our testimony, Edison's witnesses have a tendency to use outsized adjectives when referring to the testimony of others with whom they disagree. We suppose that this approach is intended to distract the Commission from the underlying facts and Edison's failure to satisfy its burden of proof in the proceeding. Edison witnesses Alongi/Kelly rely upon use of the words "incoherent," "inherently incorrect" and "astonishing" in response to an argument presented by the ARES Coalition and the National Energy Marketers Association ("NEM") regarding Edison's proposal for a dramatically reduced metering credit. At page 63 of our direct testimony, we incorrectly stated that Edison's proposal would result in a **reduction** in the credit by as much as **17,500 percent**. We thank Edison witnesses Alongi/Kelly for their careful reading of our direct testimony. (*See* Edison Ex. 32.0 at lines 490-495). However, if they had been interested in conveying accurate information to the Commission, they would have acknowledged that the point being made was that current metering credits authorized by the Commission are as much as **17,500 percent** of the levels that Edison is trying to now convince the Commission are appropriate. Our purpose was simply to show that the difference between the monthly metering credit currently in effect for RCDS Class 9 ($172.56), less the credit proposed by Edison ($0.98) is about 175 times (or 17,500%) higher than the proposed credit itself, i.e. ((172.56-0.98)/0.98)X100 = 17,500%. Alternatively, we could have stated that the proposed monthly credit is 99.4% less than its current amount ((172.56-0.98)/172.56 X100 = 99.4%). Our point remains, as noted in our direct testimony, that Edison is seeking a dramatic reduction in the metering credit that would gut past Commission decisions favoring customer access to alternatives in metering services. Edison's inability to gracefully accept the principle of customer credits based on rates charged by Edison itself suggests a fear by Edison that it is not able, on a straight up basis, to compete with new entrants for customers.

Q. **Has Edison established that the Commission was incorrect when it recently ruled that Edison did not have the right under the Single Bill Option tariff ("SBO") to force ARES to collect unpaid bundled service balances for services provided before the customer opted for delivery services?**

A. No. Far from it. Edison's original mistake, which it is now compounding, was in attempting to muscle ARES into collecting prior outstanding bundled service balances. Even though it was clear that the terms and conditions of Edison's SBO tariff did not permit such a demand, AES NewEnergy, and perhaps other ARES, did assist Edison in trying to collect these payments. We recognized that Edison's billing system was so poorly designed and rigid in its operation that the Company needed help. Unfortunately, Edison came to dinner but then wanted to live in our kitchen. ARES had a right to expect that at some point Edison would be able to solve its own problems.

Q. What is Edison's proposal in the instant proceeding regarding the size of the SBO credit?

A. Having been denied the ability to force ARES to collect its outstanding bundled balance, Edison proposes to recalculate the SBO credit, in a thinly-veiled attempt to discourage any use of the SBO tariff. Edison must surely realize that an ARES with a modern billing system is a stronger competitor. Edison has proposed using a method similar to that used to reduce the proposed metering credits, thus nearly eliminating the SBO credit in the proposed tariffs, reducing it from $0.55 per bill to $0.03. (*See* Edison Ex. 13.0, Attachment O, page 1.) This is a reduction in the SBO credit of 94.5%. The corollary to this calculation is that the current SBO credit is **1,833%** of Edison's proposed credit. Edison has asserted that the proper customer credit billed under SBO should be reduced to virtually zero. Again, this proposal appears to be consistent with Edison's approach in this proceeding to propose changes that would have a negative impact upon the competitive market by lessening the current credits associated with the SBO option.

Q. Do you have a recommendation for the Commission with respect to the proper basis for the calculation of customer credits for unbundled metering and billing services?

A. Yes. It is the same recommendation that we made with respect to the other rate design issues discussed above --the ALJ's and the Commission should reject these proposals **now**. Only by deciding this issue immediately can the Commission remove the cloud of uncertainty this is hanging over the market. Edison, will know. Competitors will know. Most importantly, customers will know what the rate design will be throughout the transition period. The ALJ's and the Commission should act promptly on the ARES Coalition's Motion to Strike and eliminate the uncertainty that is damaging the market.

Rider ISS

Q. Are there any related rate design issues before the Commission that affect competition and should be dealt with sooner rather than later?

A. Yes. Edison's proposal for a 10% surcharge for Interim Supply Service ("ISS"), with the modifications proposed by ARES Coalition witness Marc Ulrich, should be addressed as soon as possible. There is no reason to wait for the conclusion of this case to take steps to address problems with Rider ISS. If Edison is unwilling to come forward and propose a "pass to file" tariff, the Commission should enter an interim order in the instant proceeding or open an investigation with the stated goal of directing Edison to adopt an appropriate ISS tariff as soon as possible, but in no event longer than 30 days.

Q. How do Edison witnesses Clair/Crumrine address this issue?

A. Edison witnesses Clair/Crumrine go to great lengths in their rebuttal testimony to take issue with every aspect of our direct testimony regarding Rider ISS. Contrary to Edison's assertions, Edison only "communicated" with AES NewEnergy this past Spring *after* AES NewEnergy contacted Edison about apparent abuse regarding use of the tariff. The real problem is that Edison has failed to enforce the terms of the tariff. Additionally, while making assertions regarding "gaming" of the system through use of Rider ISS, Edison has refused to bring any direct evidence of this alleged abuse to the attention of Staff and the Commission.

Q. How does Edison's unwillingness to support its accusations compare to how it attempted to enforce its SBO tariff?

A. In contrast to Edison's vigorous effort to force ARES to collect unpaid bundled service balances, contrary to the terms of the SBO tariff, Edison was inattentive at best and now is being evasive regarding enforcement of the terms of the ISS tariff.

The illustration of the extent to which Edison seems to prefer to minimize some big issues is demonstrated by Edison witnesses Clair/Crumrine characterizing the difference between the rates in Rider ISS and Rider PPO as "a minor difference." (*See* Edison Ex. 31.0 at 5.) Edison's Response to ARES Coalition Data Request 1.19 reveals that the energy prices under Rider ISS were dramatically lower than under Rider PPO. We have prepared Table 4 to illustrate the differences both in cents per kWh and as a percentage of the PPO Market Values as compared to those in Rider ISS. Table 4 shows that the rates for summer on-peak power were typically well over 2¢ less per kWh under Rider ISS. The summer off-peak power rates were nearly 1¢ less per kWh under Rider ISS. Table 4 shows this disparity to be about 20% less for on-peak and about 30% less for off-peak power. This disparity was bad enough, caused as it was by Edison's failure to promptly bring the ISS and PPO tariffs into line. Worse, however, is that there is every indication that Edison allowed Rider ISS to be used as a source of supply by RES who may have placed over 300 customers on Rider ISS in order to take advantage of the discrepancy between these rates and the prevailing market prices.

Q. Please summarize you recommendation regarding proposed changes to Rider ISS?

A. The Commission should move ahead now and approve Edison's proposed changes to Rider ISS, with the modifications to the 10% penalty adder that are discussed in ARES Coalition witness Marc Ulrich's testimony.

F. EDISON IS USING THE RESIDENTIAL DELIVERY SERVICES PROCEEDING TO LOCK IN A MASSIVE RATE INCREASE FOR BUNDLED SERVICE CUSTOMERS IN 2005 THAT IS THE SIZE OF AN ADDITION OF A NEW NUCLEAR POWER PLANT

Q. Has Edison addressed the concern of the ARES Coalition and other intervenors that the results of this proceeding, whether rate base additions, revenue levels, cost allocations or rate design will likely carry over as the benchmark or starting point for the expected 2005 rate case at the end of the transition period?

A. The Company line that this is a "proceeding to establish cost-based delivery services rates. Nothing more; nothing less." (*See* Edison Ex. 20.0 at 26-27.) However, this proceeding is something considerably more than merely an exercise in setting delivery services rates.

Q. What will occur if the Commission fails to follow your recommendations to not open the door to a Trojan Horse rate filing?

If the Commission approves the "re-functionalizing" of many expense items traditionally allocated to supply to delivery services, that approval will carry through to the 2005 Rate Case. Such a determination in the instant proceeding will "pre-determine" the fact that these expense categories have been established as delivery related services and will inevitably feed into the revenue requirements to be established in the 2005 bundled rate case. Since it is largely based on a brand new cost assignment system and process Edison's own expert witness Dr. Gordon calls "fundamentally arbitrary," rejection of this proposed re-funtionalization at this time will allow Edison to collect these expenses through the CTC until the 2005 rate case.

If the Commission rolls into rate base massive capital projects without any audit of the extent to which their cost may have been affected by past practices of neglect of the distribution system, then these investments will have been pre-determined to be reasonable and prudent and there will be no turning back at the end of the transition period in 2005.

If the Commission accepts the principle that the Company's investment in wires should be accorded a return that recognizes risks supposedly associated with POLR functions, then it will have been established that in 2005 wires must provide to the parent shareholder, Exelon, a return on equity for functions totally unrelated to delivery services.

If the Commission adopts an incremental or marginal cost basis for delivery services, rate design changes such as Rider HVDS, and customer credits for unbundled services, it will have set a precedent for the establishment of new bundled service rates. The only alternative would be the creation of a long running situation in which delivery services are based on one approach and bundled services on another. This is precisely the situation that Edison is requesting that the Commission create between 2002 and the end of 2005.

III.

SUMMARY OF RECOMMENDATIONS

Q. Please summarize your rebuttal testimony.

A. **First** and foremost, we recommend that the Commission resist Edison's effort to leverage what was supposed to be a proceeding to set residential delivery services rates by seeking a very large 37% increase in non-residential rates that yields a revenue increase of 47.5%. Combined with Edison's effort to slip a doubling of transmission rates through the FERC, the wires rate increase would surge over 40% and yield over 52% more wires revenue from delivery services customers – assuming there were any delivery services customer left when Edison was done. The Commission has already taken the first important step by vigorously opposing Edison's FERC filing. We believe the Commission should take the next step and dismiss the non-residential portion of this case as out of line with the Customer Choice Act.

Second, whether the Commission does or does not dismiss the non-residential case, the Commission should, nonetheless, take steps to halt Edison's efforts to secure decisions now that will substantially degrade the development of the competitive market and that would lock the Commission into choices that would be flowed into the 2005 bundled service rate case.

Q. What do you recommend to the Commission as the most appropriate means of halting Edison's efforts to raise delivery services rates now and lock in a big rate increase in 2005?

A. There are several straightforward and entirely appropriate ways in which the Commission can get control of Edison's runaway train of a rate case.

- Approve the request of the Governmental & Consumer Intervenors and others for an investigation and audit of Edison's capital projects, primarily for the purpose of sorting out those costs that Edison incurred as a result of maintenance deferral and past mismanagement of the delivery system.
- Reject all Edison efforts to massively "re-functionalize" to delivery services various expenses totaling at least $66 million from accounts that were allocated to supply in the 1999 DST case. The reallocations now proposed by Edison are the result of a cost accounting system that has been used for the first time by Edison employees to identify costs as associated with different functions. This system has not been vetted or reviewed by the Commission and there is no independent verification of the system's accuracy. The Commission can disallow these reallocations in the confidence that the CTC is designed to allow Edison "full recovery" of these costs as they have been previously accounted for in the supply function. The Commission and Commission Staff will then have the opportunity to review the accounting system and to compare results for several years of operation, all in good time prior to the 2005 rate case.
- Require Edison to bear the burden of proof in establishing that any given cost item actually falls within the definition of delivery services in the Customer Choice Act. For example, Edison has not proven how costs associated with the clean-up of Manufactured Gas Plants have anything whatsoever to do with delivery services. Nor has Edison shown how costs of equity that it claims result from supply price risk for POLR have any connection to delivery services which are treated by the Act as totally distinct from supply responsibilities of Edison.
- Normalize Edison's test year figures to account for the atypical nature of many of the expenses Edison claims in its 2000 test year. The issue is not Edison's right to

offer a historical test year but rather the manner in which certain abnormally high expenses in that year would inflate future collections. The Commission's obligation to assure a normalized test year is especially important during the transition since the Customer Choice Act sets a high rate of return ceiling that limits the Commission's ability to lower bundled service rates prior to the end of the transition period.

- Make adjustments with respect to both capital structure and cost of capital in line with the proposals offered by Staff, IIEC, Governmental & Consumer Intervenors and others. These proposals differ from Edison's much higher proposed costs of capital and capital structure in that they are based, more appropriately and accurately, on the risk profile of an enterprise solely in the business of providing delivery services – not supply or various unregulated activities that may have riskier profiles. This is the essence of the regulatory evaluation of allowable returns for utilities.

Q. **What other recommendations would you make to the Commission?**

A. In addition to the areas we have already addressed above, we recommend that the Commission **reject** Edison's rate design proposals that, while perhaps having some modest aesthetic attraction for Edison, would (1) do serious damage to the existing savings structure in competitive choice; (2) create serious imbalances between delivery services and bundled service that would frustrate efforts to provide price comparisons for customers; and (3) lock in now important rate design decisions that should more properly be considered in the 2005 general rate case, at which time major uncertainties about Edison's proposals can be addressed.

Q. Specifically, what should the Commission do with respect to rate design issues?

A. The Commission should:

- Reject Edison's marginal cost of service study and adopt the embedded cost study as more appropriate at this time.
- Reject Edison's proposed Rider HVDS as an inadequately supported half-measure that has not been shown to provide for an equitable distribution of revenue requirements among those customers served at lower voltage levels than the 69kV threshold for eligibility under Rider HVDS.
- Reject Edison's Demand Ratchet proposal as inadequately supported and more appropriate for consideration on a more comprehensive basis in the 2005 general rate case.
- Reject Edison's insistence, despite recent Commission decisions to the contrary, that customers should receive credits for unbundled delivery services such as metering and billing, including the Single Bill Option, that are well below current levels set by the Commission at embedded cost. If Edison's proposals are adopted then the result will be that customers interested in unbundled services would continue to pay Edison for services Edison does not render and new entrants would be expected to compete with Edison while, in essence subsidizing Edison. There is no provision in the Customer Choice Act for any type of CTC for "stranded" delivery services costs that Edison seeks.

Q. Are there other forums in which you would recommend that the Commission should take action?

A. Yes. We would urge the Commission to continue to vigorously oppose Edison's effort at FERC to set transmission rates that would ignore the hundreds of millions of dollars in past depreciation expenses Edison has collected from retail customers over many years, much of it under rates approved by the Illinois Commerce Commission. AES NewEnergy has filed at FERC in support of the Commission's position.

Q. **Do you have any concluding remarks?**

A. Yes. The Edison filing is a two-fold threat to electric customers and to the Commission. It would have the effect of seriously undermining the progress of the past two years in achieving an open access environment and, once having gutted competition, this $575 million filing along with the $177 million transmission rate increase request to FERC serves as a Trojan Horse for a major rate increase for all customers in 2005. By luring the Commission into accepting rate increases for the minority of customers who are on delivery services now, Edison would succeed in a pre-emptory strike and lock in hundreds of millions of dollars in general rate increases. Edison's plan is clear: destroy competition in the short term and saddle all rate payers with enormous rate increases in the long term. If the Commission does not sever the proposed rate increases and other changes for the commercial and industrial customers from this filing as suggested in our testimony, the Commission must dramatically revise Edison's proposal so as to not undermine competition now and its own authority to actually regulate rates for monopoly services in the future.

Q. **Does this complete your rebuttal testimony?**

A. Yes.

A

BACK TO THE ISSUE

ComEd seeks rate hike for biz

Second proposal spurs opposition among regulators

Charged up: The ICC's Terry Harvill says a new accounting method would give ComEd a windfall: "They're changing the rules of the game halfway through the game." Photo: Steve Leonard

October 15, 2001
By Steve Daniels

Commonwealth Edison Co. is pressing for another big hike in its charges for delivering electricity to customers of rival power suppliers.

The Chicago utility's Aug. 31 filing with federal regulators to nearly double transmission rates — for carrying electricity over its long-haul, high-voltage lines for these customers — has triggered opposition from state regulators.

That request followed a June proposal for a 37% increase in distribution charges, for moving power through the utility's more local, lower-voltage wires (*Crain's*, June 11). That bid is subject to approval by the Illinois Commerce Commission (ICC).

If approved, the two rate hikes together will increase transmission and distribution costs by about 50% for business customers that leave the utility for competing power suppliers.

Perhaps more important, the new rates would clear the way for delivery charge increases of the same magnitude on all Chicago-area power users in three years, when a freeze on ComEd's rates expires.

Transmission and distribution rates account for 20% to 25% of a typical business customer's total power bill — so, a typical bill could rise as much as 10% with these increases.

Apart from the bottom-line hit to businesses, ComEd competitors and local government officials also warn that the hikes could stymie the nascent competitive market because they could prevent alternative suppliers from offering savings from the utility's bundled rate.

AES NewEnergy Inc., the largest alternative supplier in Illinois with more than 800 customers, says 86% of its customers will see their bills increase if both proposals are approved.

"What this means is that large numbers of customers would be down to the point where bundled (utility) service is cheaper, or it's so close that they wouldn't bother choosing an (alternative) provider," says Phillip

O'Connor, president of AES NewEnergy's Chicago office. "You cannot have competition being viable when your base of potential customers is so small."

Arlene Juracek, ComEd vice-president of regulatory and strategic services, counters that few businesses actually will pay higher rates in the short term because the rise in delivery charges will be offset in many cases by a corresponding decrease in "transition" fees paid to the utility when customers use another supplier.

The Aug. 31 transmission rate proposal, filed with the Federal Energy Regulatory Commission (FERC), surprised the Illinois Commerce Commission, which asked FERC two weeks ago to block the rate hike.

The latest rate hike proposal incorporates a proposed change in ComEd's account methodology, in which the utility would wipe off its books more than $660 million of accumulated depreciation of transmission assets and ask ratepayers to shoulder that investment again.

'Unjust and unreasonable'

In its filing with FERC, the ICC said the proposed change "would result in artificially high transmission rates, and an unjust and unreasonable windfall to ComEd at the expense of transmission ratepayers."

"They're essentially changing the rules of the game halfway through the game," says ICC Commissioner Terry Harvill.

ComEd responds that FERC itself — in an order last year pushing utilities to combine their transmission assets into large, regional networks — said utilities could consider changing the accounting method.

"ComEd believes we have an obligation to the shareholders of (parent company) Exelon Corp. to receive compensation in accordance with what is permissible by law," says Steven T. Naumann, ComEd vice-president in charge of transmission services. "The commission will determine if this is what they meant (in their order) or if it is not what they meant."

Meanwhile, the city of Chicago, frustrated by ComEd's resistance to sharing detailed financial data, is poised ask the ICC formally to order an outside audit of ComEd's books for 2000. The state attorney general's office and the Cook County state's attorney's office are joining the city in the petition, which could be filed as early as Monday, sources say.

The audit, which ComEd opposes, would be aimed at separating ordinary maintenance and improvement costs from the extraordinary measures ComEd took in 1999 and 2000 to beef up its distribution system, after acknowledging it had neglected that infrastructure during the previous two decades.

The behind-the-scenes skirmishing spotlights how seriously local government officials are taking the regulatory proceedings. While the new rates affect only those customers in the competitive market, they'll be the benchmark used for the power delivery charges all other ComEd customers will pay in 2005, when the utility's "bundled" rates are no longer frozen.

Setting the rules

"The company is very much aware of the fact that the rules for the future are getting set now," says William Abolt, commissioner of the city's Department of Environment. "Basically, the next 36 months are going to set an awful lot of the fees for the future."

Mr. Abolt says the audit request is one option the city has to pressure ComEd into opening its books, but says it wouldn't be necessary if the company agreed to do so voluntarily.

A ComEd executive says the data will be made available to those who sign a blanket confidentiality agreement — which intervenors in the case, including the city, aren't likely to sign.

Ms. Juracek of ComEd says the utility already has sifted extraordinary costs associated with its $1.5-billion infrastructure upgrade out of the rate base. But she allows that most of those are minimal tree-trimming expenses. Large amounts of overtime paid to unionized workers, as well as contractor expenses, are included in the rates.

"There's no free lunch here," she says.

Says Mr. Abolt: "Now, it's time to sort that all out. So, let's sort it out."